

Siegel, Steve

From: Persiani, John
Sent: Tuesday, March 08, 2011 10:06 AM
To: Siegel, Steve
Subject: FW: MLC Bankruptcy
Attachments: AS FILED Settlement Agreement.pdf

FYI

From: Nawaday, Jaimie (USANYS) [mailto:Jaimie.Nawaday@usdoj.gov]
Sent: Tuesday, March 08, 2011 9:58 AM
To: Sanford, AnnMarie
Cc: Wilczak, Tom; Kuehler, Natalie (USANYS); Alan Golub; Allan H. Ickowitz; Brian D. Figot; Carol Smith; David L. Cook; Dustin P. Ordway; Gabriel Calvo; George Shuster; James T. Price; Jeffrey G. Hamilton; Persiani, John; John R. Humphrey; Jonathan Eric Berry; Jose J. Bartolomei; Kevin J. Byrne; Kristin Mayhew; Lee Henig Elona; Leslie R. Schenck; Louis Naugle; Mark Erzen; Mark Stevens; Matthew A. Hamermesh; Michael M. Briley; Milissa Murray; Numan Franzetti LLP; Richard E. Hahn; Samuel R. Grego; Stephen H. Armstrong; Stephen K. Dexter; Sue Palmer ; Susan R. Katzoff; Thomas Byrne; Tiffany Strelow Cobb; Tim Sloan; Tracee Thomas; William L. Warren; Tenenbaum, Alan (ENRD)
Subject: RE: MLC Bankruptcy

Ann Marie,

I can confirm that the proposed Settlement Agreement, which was filed with the Court on Friday and which I am attaching here for your ease of reference, allocates EPA's settlement proceeds on a per site basis. Under the proposed Settlement Agreement, for most sites the proceeds will be available to the PRPs on an ongoing basis to fund site work currently being conducted or to be conducted in the future by the PRPs. Paragraph 48 of the proposed Settlement Agreement specifically provides that "[w]ith the exception of distributions received on account of penalty claims, any cash distribution or the proceeds of any non-cash distribution received by EPA on account of an Allowed General Unsecured Claim shall be deposited in a special account within the Superfund to be retained and used to fund response actions at the Settled Non-Owned Site for which it received an Allowed General Unsecured Claim, or, if no further response action is required, or as otherwise required by EPA policy, transferred by EPA to the Superfund." For a limited number of cases, it may be against EPA policy to deposit the cash distribution directly into a site-specific special account.

Regards,

Jaimie

From: Sanford, AnnMarie [mailto:sanforda@pepperlaw.com]
Sent: Wednesday, March 02, 2011 5:02 PM
To: Nawaday, Jaimie (USANYS)
Cc: Wilczak, Tom; Kuehler, Natalie (USANYS); Alan Golub; Allan H. Ickowitz; Brian D. Figot; Carol Smith; David L. Cook; Dustin P. Ordway; Gabriel Calvo; George Shuster; James T. Price; Jeffrey G. Hamilton; John B. Persiani; John R. Humphrey; Jonathan Eric Berry; Jose J. Bartolomei; Kevin J. Byrne; Kristin Mayhew; Lee Henig Elona; Leslie R. Schenck; Louis Naugle; Mark Erzen; Mark Stevens; Matthew A. Hamermesh; Michael M. Briley; Milissa Murray; Numan Franzetti LLP; Richard E. Hahn; Samuel R. Grego; Stephen H. Armstrong; Stephen K. Dexter; Sue Palmer ; Susan R. Katzoff;

Thomas Byrne; Tiffany Strelow Cobb; Tim Sloan; Tracee Thomas; William L. Warren

Subject: MLC Bankruptcy

Jaimie,

Thank you for speaking with Tom Wilczak and I today regarding EPA's claims in the MLC bankruptcy action. As we mentioned, we have been in contact with attorneys for PRP groups across the country and two principal issues were raised. First, we believe the settlements should provide that any proceeds obtained by EPA in its global settlement with MLC be allocated to each individual site included in the global settlement. Second, we also believe the settlements should provide that settlement proceeds allocated to each site be available on an on-going basis to the PRPs at each site where the PRPs are, or will be performing site work, rather than to hold the money until site work is complete.

Will you confirm that EPA's settlement proceeds will be allocated on a per site basis and also that the proceeds will be available to the PRPs on an on-going basis to fund site work being done now or in the future by the PRPs? If you can confirm these understandings, should each PRP group also confirm with the appropriate Regional Counsel for their sites that EPA is in agreement with this arrangement?

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